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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,144	03/30/2001	Christopher T. Garrad	PPC-780	8686

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EXAMINER

REICHLE, KARIN M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 03/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/823/44

Applicant(s)

Garrod et al

Examiner

Reiche

Group Art Unit

3767

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 3-30-01
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-12 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-12 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☒ The drawing(s) filed on 3-30-01 is/are objected to by the Examiner.
- ☒ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 3
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

Art Unit: 3761

The abstract of the disclosure is objected to because the legal terminology "means for" should be avoided. Also, on line 4, "(iii)" should be deleted. Also the abstract is too long, i.e. more than 150 words, and has more than 1 paragraph. Correction is required. See MPEP § 608.01(b).

The disclosure is objected to because of the following informalities: 1) The specification should be limited to a description of the invention, i.e. reference to Applicants should be avoided, e.g. page 2, line 24. 2) The Summary of the Invention section, i.e. a description of the claimed invention, and the invention as claimed are not consistent in scope, i.e. where are claimed perforations set forth in the summary? Where are "removal means" set forth in the claims. 3) Where are Figures 9a-9c described bridging pages 3-4?

Appropriate correction is required.

The drawings are objected to because where is Figure 9? The descriptive text should be avoided. Where is backsheet shown in figure 1? In Figure 9, the line from 2 should be dashed to denote underlying structure.. Correction is required.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the pantiliner or/and wing(s) as claimed in claims 1-12, e.g, where are the layers shown? the garment attachment means? the absorbent article attachment means ? must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: clear antecedent basis for claims 3, 8 and 11 should be defined..

The formal drawings filed July 2, 2001 have been placed in the file. Approval of such drawings is held in abeyance until such time as the outstanding drawings objections are overcome.

Claims 2-12 are objected to because of the following informalities: in claims 2-4, line 1, "An" should be -- The --. In claim 9, line 2, "A" should be -- a --. In claims 10-12, line 1, "A" should be --The --. In claims 6-8, "An" should be -- The --. Appropriate correction is required.

Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In regard to claims 5 and 7-8, it is unclear whether Applicant is claiming the subcombination of the wing, i.e. see lines 1-6, or the combination of the wing and pantiliner, see claims 7-8 and the last six lines of claim 5.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 9-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Bien.

See Figures, abstract, column 1, lines 55 et seq, column 2, lines 1-4, 15-22, 24-32, column 4, lines 21-31, and 62-65, column 5, line 66, column 7, lines 55-57 and thus Figures of Mattingly which show claimed silhouette, column 6, line 7- column 7, line 7, col. 7, line 29 - column 8, line

16, i.e. claimed wing and perforation, column 8, lines 25-28, and thus column 8, lines 16-56 of Osborn, i.e. transfer layer. In regard to claim 1, last line and claim 2, it is the Examiner's opinion such is explicitly disclosed by the Bien patent. In any case the last line of claim 1 sets forth capability or function. Since the Bien device includes the same structure as claimed, such structure is also deemed inherent of the claimed function or capability. See MPEP 2112.01. Claim 2 is a product by process claim. Patentability is based on the product itself not the method of production. The product of Bien is the same and thus the claim is unpatentable even though the product may have been made by a different process. See MPEP 2113. These comments with respect to claim 2 also apply to claim 10. With regard to the preambles of claims 9-12, the structure of the "kit" claimed is taught by Bien.

Claims 5-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Maulhardt DE '026.

As best understood claims 5-8 claim an attachment wing, i.e. "for ... garment"(line 1) lines 6 et seq, and claims 7-8 recite capability or function, i.e. capable of securement to pantliner and garment. See figures of Maulhardt. With regard to the claimed capability or function, the rationale set forth with regard to claim 1, last line discussed supra also applies here, i.e. inherently capable. With regard to claim 6, see discussion of claims 2 and 10 supra, which discussion also applies here.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The other patents teach various shapes and interchangeable, various flaps, perforations, etc.

The Examiner's regular work schedule is Monday-Thursday.

Any inquiry concerning this communication should be directed to K. M. Reichle at
telephone number (703) 308-2617.

K.Reichle:bhw

March 9, 2002

K.M. Reichle
Kerim M. Reichle
Patent Examiner

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in ABANDONMENT of the application.